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Application Number	09/578,277
Filing Date	MAY 25, 2000
First Named Inventor	INDIRA C. PRABHAKAR
Art Unit	2644
Examiner Name	BRIAN T. PENDLETON
Attorney Docket Number	5205.3005.001

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Remarks CHECK NO. 21129 IN THE AMOUNT OF \$250.00		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name REISING, ETHINGTON, BARNES, KISSELLE & LEARMAN, P.C.

Signature *Robert L. Farris*

Printed name ROBERT L. FARRIS

Date OCTOBER 18, 2005 Reg. No. 25,112

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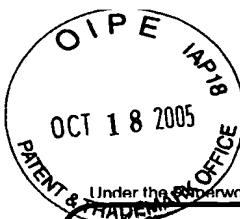
Signature *Kirsten L. Thornton*

Typed or printed name KIRSTEN L. THORNTON

Date OCTOBER 18, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

250.00

Complete if Known

Application Number	09/578,277
Filing Date	MAY 25, 2000
First Named Inventor	INDIRA C. PRABHAKAR
Examiner Name	BRIAN T. PENDLETON
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Attorney Docket No.	5205.3005.001

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: 50-0852 Deposit Account Name: REISING, ETHINGTON

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	
				Fee (\$)	Fee (\$)
- 20 or HP =	x	=		50	25
HP = highest number of total claims paid for, if greater than 20.				200	100
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	360	180
- 3 or HP =	x	=			
HP = highest number of independent claims paid for, if greater than 3.					

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)

- 100 = / 50 = (round up to a whole number) x =

Fees Paid (\$)

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): APPEAL BRIEF

250.00

SUBMITTED BY

Signature	Robert L. Farris	Registration No. (Attorney/Agent) 25,112	Telephone 989-799-5300
Name (Print/Type)	ROBERT L. FARRIS		Date OCTOBER 18, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT: Indira C. Prabhaker et al.
SERIAL NO: 09/578,277 ART UNIT: 2644
FILED: 05/25/2000
FOR: Medicine Administration Method
EXAMINER: Brian T. Pendleton

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 18, 2005

Sir:

APPELLANTS' BRIEF

(i). REAL PARTY IN INTEREST

Indira C. Prabhakar and Bangalore Prabhakar are in the inventors, owners on the entire interest in the Patent Application, and the Real Party in Interest.

(ii). RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences or judicial proceedings known to appellant or appellant's legal representative which maybe related to, directly affect or be

CERTIFICATION 37 C.F.R. 1.8a and 1.10
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Date: October 18, 2005

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directly affected by or have a bearing on the Board's decision in this pending Appeal.

(iii). STATUS OF THE CLAIMS

Claims 1 through 6, all the claims in the application, stated rejected.

The rejections of Claims 1 through 6 are appealed.

(iv). STATUS OF AMENDMENTS

Amendments were not filed subsequent to the final rejection.

(v). SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 is directed to a medication administration method employing a medication reminder device 10. The method includes the steps of turning the reminder device on (page 7, lines 7 and 8), entering a code that provides access to a recording function (page 7, lines 9-11), recording an oral message in the reminder device that identifies a medication and the dosage (page 7, lines 17 and 18 and page 8, lines 14-16), entering the month, date and time of day schedule in the reminder device (page 7, lines 17-19), saving the oral message (page 4, line 4) and the month, date and time of day scheduled (page 5, lines 1-4 and page 7, lines 17-19), generating a signal to alert an individual that it is time to take the medication (page 5, lines 10-13), playing the message by pressing a play button 14, and turning off the signal to alert an individual in response to playing the message (page 5, lines 19-22).

A month, date and time of day is entered for each medication event. An individual is alerted only when it is time to take a specific medication. No instructions are given concerning medications that are to be taken at a different time thereby reducing confusion. Entering a month, date and time of day requires substantial work on the part of the person entering the data into the reminder device. However, it gives doctors complete control

over the regimen. There is complete freedom to select a month, date, time of day and dosage for a given medication within a twelve month period.

Claim 2 is dependent on claim 1 and includes the steps of entering a second medication and the month, date and time of day schedule (page 6, lines 21 and 22).

Claim 3 is dependant upon claim 1 and includes the step of recording instructions to be followed in the event that a medication is not taken within a predetermined time period following the month, date and time of day schedule (page 6, lines 14-17).

Claim 4 is dependent upon claim 1 and includes the steps of changing a current month, date and time display to a future period, playing the message recorded for the future period and then changing the month, date and time to the current month, date and time (page 9, lines 14-26).

Claim 5 is an independent claim. The claim sets forth a method of reminding a person of a future action to be taken employing a reminder device 10. The method includes the steps of turning the reminder device on (page 7, lines 7 and 8), entering a code that provides access to a recording function (page 7, lines 9-11), recording an oral reminder message in the reminder device (page 7, lines 17 and 18 and page 8, lines 14-16), entering a month, date and time of day schedule for times (page 17, lines 17-19) in which the person is to listen to the recorded message, saving the message (page A, line A) and month, date and time of day schedule (page 5, lines 1-4 and page 7, lines 17-19), generating a signal to alert the person that it is time to listen to the oral reminder (page 5, lines 10-13), and playing the oral message and turning the alert signal off by pressing a play button 14 (page 5, lines 19-22).

Claim 6 is dependent upon claim 5 and includes changing the current month,

date and time of day to a future period, playing oral messages to be played during the future period and changing the future period to the current month time and date (page 9, lines 14-26).

(vi). GROUNDS OF REJECTION TO BE REVIEWED

Claims 1 2, and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newland, 6,169,707 in view of Sekura et al, 6,198,383, further in view of Barker, 6,560,165.

Regarding claims 1 and 5, Newland discloses a medication reminder device comprising ON/OFF button 34 for turning the medication reminder device on, a microphone for recording an oral message that identifies a medication and the dosage to be taken, entering a day and time schedule and playing the recorded oral message that identifies a medication and the dosage to be taken, entering a day and time scheduled in the device (in microprocessor 16) for taking a medication, saving the oral message and the day and time schedule and playing the recorded oral message when the time arrives for taking a medication.

Newland does not disclose entering a code that provides access to a recording function.

Sekura et al disclose a prescription compliance device which, in one embodiment, gives the user the option of locking the programming capabilities of the device. It was advantageous to have the locking feature since unintended alterations of a dosage schedule could result if the program was not locked. A resulting mistake in dosage could lead to serious health problems for the user. Therefore, one would have been motivated to provide the locking feature of Sekura et al, by providing an access code, in the invention of Newland. The combination of the Newland and Sekura et al do not specify that the month, date and time of day is entered in the schedule of the mediation reminder device. Barker discloses a medical information

applicant which sets an alarm for a medical event (dosage time), whereby the alarm is set for the month, date and time of day, as discussed in column 5 line 45 – column 6 line 38. It would have been obvious to one of ordinary skill in the art at the time of invention to apply the medical event alarm setting configuration taught by Barker in the combination of Newland and Sekura for the purpose of permitting the user to program a schedule of over a long period thereby increasing the flexibility of the medication reminder system. Barker discloses an alert signal (a beep) in column 7 lines 9-13 when a medical event occurs and one of the buttons (reverse or forward) is used to turn off the alert signal. In the combination of Newland, Sekura and Barker, it would have been obvious to use the audible beep alert signal to alert an individual that it is time to take a medication. Furthermore, it was obvious to replay the recorded oral message after the alert signal to give more specific information about how a mediation should be taken. The modified Newland invention, per the teachings of Sekura and Barker, would include generating a signal, playing the oral message whereby the oral message is played in response to a button to turn off the alert signal. One of ordinary skill in the art would have realized, without undue experimentation, the natural order of beeping (alert signal) and further information via recorded voice, as means for patient compliance.

Regarding claim 2, Barker discloses multiple alarms which are used to record a dosage schedule for up to 12 medical events. It would have been obvious to one of ordinary skill in the art to provide multiple oral message for those medical events.

Regarding claims 4 and 6, Barker discloses in column 7 lines 37-43 that all of the medical events stored can be displayed. Obviously, one of ordinary skill in the art would have concluded that display would be returned to the current month, date and time after

reviewing the medical events. As a result, it was taught to review an existing dosage schedule and return to the current time. As applied to the combination of Newland, Sekura and Barker, it would have been obvious to play the oral messages, which are recorded for a future period, and then return to the current time for the purpose of double-checking that the exact medication reminder message is recorded for the user.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newland in view of Sekura et al further in view of Barker as applied to claim 1 above, and further in view of Kirton et al. The combination of Newland, Sekura et al and Barker does not teach recording a warning message and playing such message when the user does not take action after an alter signal for a schedule dosage. Nonetheless, that feature was well known in the art at the time of invention. Kirton et al disclose an event monitoring device for medicine compliance, In figure 3 there is disclosed a flow diagram which shows that the user gets alerted several times alert he initial alert to take medication. Thus, it was taught to further warn the user that medication has to be taken. The art suggests that single notification was not sufficient. It was advantageous to provide multiple notification since the missing of a dose of medicine could have resulted in grave consequences for the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system of multiple notification in the combination of Newland, Sekura et al and Barker. Since the Newland invention uses voice messages, modifying the Newland/Sekura et al/Barker combination would involve recording a message that the initial alert was not regarded, thus meeting claim 3.

(vii). ARGUMENT

Appellants invention is in a medication administration system which provides more flexibility and permits a doctor to prescribe a relatively extensive drug regimen. Flexibility is obtained by providing a date and time for taking each medication and providing a reminder at the time each mediation is to be taken. This flexibility accommodates regimens with times between taking mediations of minutes, hours, days, weeks, and months. If for example a medication is to be taken once a week for six weeks, the date for taking the medication must include the month and the day of the month. This flexibility permits changes in the interval between taking a given medication. Patients are frequently placed in a hospital to ensure that drugs are taken as prescribed. Appellants' medicine administration method provides sufficient flexibility to permit some patients to live and work outside a hospital while on a regimen that would currently require a hospital stay.

Claims 1,2, and 4-6 stand as rejected as being unpatentable over Newland in view of Sekura et al and further in view of Barker.

Newland disclosed a medication storage and reminder device with a programmable microprocessor. The device includes a clock and calendar. Viewable or audible signal reminders are provided to announce the proper timing for opening one lid 22. The device unlocks each one of four cubicle lids 22 at selected times each day. Cubicles 20 are provided for seven days. One cubicle 20 holds all the pills to be taken during the first period on Sunday for example. The lid 22 for each cubicle 20 bears viewable indicia advising of the proper sequence and timing of opening each lid, and the time period for taking each medication contained in each of the corresponding cubicles, e.g. "a.m.", "noon", "p.m.", and

“bed.” (column 3, line 66 through Column 4, line 6) A tone or light and/or voice reminder indicates that a lid 22 is unlocked. A green light indicates that the medication in a cubicle is taken on time. A yellow light indicates each medication is taken late. A red light indicates “too late.” If “too late,” the lid 22 is locked. A new tray 18 with cubicles 20 with medicines is inserted into the housing weekly. The weekly schedule will continue indefinitely as long as new trays are inserted. If a new medication is to be added, it will be up to the person filling the trays 18 to do so. It is unclear what to do if one medication in a cubicle 20 is to be taken before a meal and another medication in the same cubicle is to be taken after a meal.

Newland discloses jack 30 for transmitting compliance data to a computer for storage. The stored data would apparently indicate the day of the week and time interval when a pill was not taken. The information used to open a specific lid 22 is the day of the week and the hour and minutes of the day. Newland appears to suggest that all the pills in one cubicle 20 should be taken soon after a lid 22 closing the cubicle 20 is unlocked. If the pills are not taken soon after the lid 22 is unlocked, there will be an indication that medication was taken late or the lid may be locked again. Newland does not use the month or date of the month to open a lid 22.

Newland does not require entry of a code to obtain access to a recording function as set forth in claims 1 and 5. Newland does not enter a month, date and time of day schedule in the remainder device for taking a medication as set forth in claim 1. Newland does not enter a month, date and time of day schedule in the remainder device for the times in which the person is to listen to the recorded message as set forth in claim 5. Newland’s lids 22 are unlocked based on one of four times of day and the day of the week as stated above.

Sekura et al disclosed a prescription compliance device and method of using in which

the programming step can be locked and the user enters a code to lock or unlock the programming feature. (column 9, lines 55-65)

Sekura et al does not enter a month for a time for taking a pill as set forth in Applicants' claim 1 or for altering a person to listen to a recorded message as set forth in claim 5. A plurality of pre-programmed medication-taking regimens are stored in a program memory 20 (column 3, lines 62-63). A selector selects one of the regimens (column 2, lines 18 and 19) by pressing function key 22 when the desired regimen is displayed. (column 5, lines 6-9) A list of regimen examples is shown in Figure 4. Sekura provides an optional customize program (column 9, lines 18-20). A monthly cycle is available in the customize program. In the monthly cycle, the number of days in the month is entered and the starting date is entered (column 9, lines 36-39). There is no disclosed method of including two month.

Barker discloses a medical information appliance that is the size of a watch. (column 2, lines 29-30) The device displays medical information and medical events. (column 3, lines 4-13) An array of pixels scroll across the display row to present medical information and events on a device the size of a watch. (column 2, lines 26-31).

The Baker device provides space for twelve daily events. Twelve daily alarms are available. (column 5, line 46) There is one alarm for each event. A total of 36 characters may be recorded for a medical event. (column 5, lines 48-51) If multiple medications are taken at a given time, the medications can be abbreviated so they all may be listed within 36 characters. (column 5, lines 51-53) When the information entered into the device is correct, the mode button is pressed to move to the time of each medical event. The forward button 24 and the reverse button 26 are again used to select the minutes. (column 6, lines 8-12) Hours

and days are not entered (column 2, line 45 through column 6, line 28). The hour is not required presumably because the hour for each of the twelve daily events is predetermined. The system moves from event to event in a fixed order. The alarms are activated based on the twelve daily alarms and the time inserted into the event period of 36 characters.

The Barker device also functions as a watch. The paragraph starting in column 6 on line 29 relates to setting the watch portion of the device. The watch portion can be used when the reminder functions are disabled as well as when the reminder functions are in use. For the watch mode, the minutes, seconds, day of the week, month and day of the month are entered or corrected as necessary. (column 6, lines 34-38) This mode is shown in Figure 2. The year is not mentioned in the time mode paragraph.

Multiple medications can be included in one of the twelve daily events provided by the Baker device. The message displayed is limited to 36 characters (column 5, lines 49 and 50). If multiple medications are taken at a given time, the medications can be abbreviated so they all may be listed within 36 characters (column 5, lines 51-53). Barker does not state or explain how to include a medication that is taken every two days. The information could be explained in a portion of the 36 characters.

Barker repeats day one on day 2 unless the entries for the available twelve alarms are changed.

The final rejection states Barker discloses a medical information appliance which sets an alarm for a medical event (dosage time), whereby the alarm is set for the month and time of day, as discussed in column 6 line 38. Appellants respectfully disagree. The Figure 1 is a view of the alarm mode, Figure 2 is a view of the time mode, Figure 3 is a view of the data bank mode, and Figure 4 is a view of the activate mode. Each mode is described separately in

the specification. The paragraphs starting in column 5, line 39 and ending in column 6 on line 28 relate to Figure 1, the daily alarms, and the medical events. Hours and days are not entered as explained above and as setforth in the paragraph starting in column 5 on line 62. The paragraph staring in column 6 on line 29 concerning the time mode shown in Figure 2 relates to the time keeping capability function and not to the daily alarms. In considering the entire disclosure of Barker it appears to Appellants to be clear that the month and date are not searched to activate a medication time reminder.

Barker bases his medication reminder system on twelve daily alarms, Twelve daily alarms are similar to the four daily containers of Newland. They simplify data entry and reduce electronic memory requirements at the expense of flexibility.

The twelve daily alarms of Barker eliminate the need to search for event requirements by month and day. The daily alarms do not change from day to day unless new requirements are added or old requirements for medications are eliminate or changed. Repeating the same messages day after day simplify the Barker apparatus and reduce the memory requirements.

Barker does not use the day of the week or the date of the month to activate one of the twelve daily alarms, as required by Applicants' claim 1. Barker does not enter a month, date and time of the day schedule in the remainder device for the times in which the person is to listen to the recorded message, as set forth in Applicants' claim 5. In view of the above, claims 1 and 5 are patentable over Newland in view of Sekura et al and further in view of Baker.

Claims 2-4 are dependent upon claim 1 and are patentable together with claim 1 for reasons set forth above.

Claim 6 is dependent upon claim 5 and is patentable together with claim 5 for reasons

set forth above.

Appellant's claims are patentable over Newland in view of Sekura et al and Barker for reasons set forth above. Reversal of the Final Rejection is therefore respectfully requested.

(viii). APPENDIX

A. Claims 1-6

It is believed that all the claims on appeal are clearly patentable over the prior art of record. Accordingly, reversal of the final rejection and allowance of the application are requested.

Respectfully submitted,

Indira C. Prabhakar and
Bangalore Prabhakar

By their attorney,

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klt



CLAIMS

1. A medication administration method employing a medication reminder device comprising:
 - turning the medication reminder device on;
 - entering a code that provides access to a recording function;
 - recording an oral message in the medication reminder device that identifies a medication and the dosage to be taken;
 - entering a month, date and time of day schedule in the medication reminder device for taking a medication;
 - saving the oral message and the month, date and time of day schedule;
 - generating a signal to alert an individual that it is time to take a medication;
 - playing the recorded oral message upon activation of the medication reminder device by pressing a play button; and
 - turning off said signal to alert an individual in response to playing the oral message.
2. A medication administration method as set forth in claim 1 including: recording a second oral message in the medical reminder device that identifies a second medication and the dosage to be taken; entering a second month, date and time of day schedule in the medication reminder device; saving the second oral message and the second month, date and time of day schedule; and playing the second recorded oral message upon activation of the medication reminder device by pressing the play button following the beginning of a month, date and time of day period for taking the second medication.
3. A medication administration method as set forth in claim 1 including: recording a

warning message instructing a person of the action to be taken when an identified medication is not taken within a predetermined time period following the month, date and time of day schedule or taking the identified medication; pressing the play button and playing a warning message when the oral message relating to the identified medication is not played within the predetermined time period.

4. A medication administration method as set forth in claim 1 including:
 - changing a current month, date and time display by the medication reminder device to a future period;
 - playing the messages recorded for the future period; and
 - changing the month, date and time to the current month, date and time.
5. A method of reminding a person of future actions to be taken employing a reminder device comprising:
 - turning the reminder device on;
 - entering a code that provides access to a recording function;
 - recording an oral reminder message in the reminder device;
 - entering a month, date and time of day schedule in the reminder device for the times in which the person is to listen to the recorded message;
 - saving the oral reminder message and the month, date and time of day schedule;
 - generating a signal to alert the person that it is time to listen to the oral reminder message; and
 - playing the recorded oral message upon activation of the reminder device and turning off the signal to alert the person by pressing a play button.

reminder device as set forth in claim 5 including:

changing a current month, date and time of day displayed by the reminder device to a future period;

playing the oral reminder message in the reminder device that is to be played during the future period; and

changing the future period to the current month, date and time of day.